THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition Nos. 12846, 12856 and 12880 of 2007

Date: 12.09.2007

W.P. No. 12846 of 2007

Between:

Lingam Kondaiah.

..... PETITIONER

AND

The Chief Engineer (O&M),
Kothagudem Thermal Power Station,
Palvoncha, Khammam District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition Nos. 12846, 12856 and 12880 of 2007

Common Order:

Since the facts involved in all the writ petitions are identical, they are being disposed of by this common order.

The petitioners, who claim to be the grand sons of Lingam Kondaiah, whose land was acquired for the purpose of excavation of channel from Kinnerasani Dam Project to Kothagudem Thermal Power Station, have filed these writ petitions seeking to direct the respondents to consider their cases for appointment in the

1st respondent-Organization in any suitable post under the land ousters quota.

The petitioners state that the lands admeasuring Ac.5.20 guntas in Survey No. 446/2, Ac.3.07 guntas in Survey No. 449/2, and Ac.3.24 guntas in Survey No. 450/2, situated at Palvoncha village and Mandal, Khammam District, belonged to their grand father, namely Lingam Kondaiah, were acquired for the purpose of excavation of channel from Kinnerasani Dam Project to Kothagudem Thermal Power Station. Thereafter, they approached the respondents and requested them to provide employment in any suitable post under the land ousters quota, but they have not considered their case stating that the grand children of land displaced persons are not entitled for employment under the said quota. According to the petitioners, the respondents considered the cases of one M. Nagendra Babu and Varsa Venkateswarlu, who are the grand children of the land ousters, and provided employment to them

under the land ousters quota in the year 1985 and 2000 respectively, and the action of the respondents in not considering their cases is illegal and discriminatory. Hence, they filed the present writ petitions.

The petitioners have filed the writ petitions seeking employment on the ground that their lands were acquired. The lands were acquired as far back as in the year 1965, and since then more than 40 years have elapsed. As the claim of the petitioners is belated, I was not inclined to even admit the writ petition, but since the petitioners have alleged that the respondents have provided employment to similarly situated persons like the petitioner in the years 1985 and 2000, I felt it appropriate to issue notices to the respondents, so as to ascertain the genuineness of the said allegations. Therefore, this Court while ordering notices to the respondents directed them to file counter. The respondents accordingly filed counter, but as the counter affidavit filed by them did not reflect the information with regard to list of persons appointed under the land ousters quota in pursuance of the acquisitions, this Court directed the respondents to appear in person along with relevant records. Accordingly, they appeared in person and filed additional counter affidavit along with relevant material papers.

The main contention of Sri K. Chidambaram, learned Standing Counsel for the respondents, is that though the land was acquired and award was passed in the year 1965, the petitioners neither approached the respondents nor made any representation so far claiming any appointment under the land ousters quota, and for the first time after lapse of 40 years after the acquisition, they have approached this Court and filed the present writ petitions seeking employment under the land ousters quota, hence, the writ petitions are not maintainable and the same are liable to be dismissed on the ground of laches.

Learned Standing Counsel for the respondents further justified the appointments of M. Nagendra Babu and

V. Venkateswarlu, contending that M. Nagendra Babu, who is the grand son of a land looser, was appointed in the year 1985 itself, taking into consideration the guidelines prevailing as on that day, and thereafter, the Government of Andhra Pradesh issued G.O. Ms. No.98 on 15.04.1986 restricting the appointments under the land ousters quota to 50% of the vacancies, and apart from that as per the said G.O. the grand sons of the land ousters are not entitled for any appointment under the said quota. Insofar as the appointment of V. Venkateswarlu is concerned, he submitted that V. Venkateswarlu is the son of one V. Pochaiah, whose land was acquired for construction of Kothagudem Thermal Power Station, but one Koram Kotaiah, S/o Mallaiah, by impersonation and claiming himself as V. Pochaiah, obtained appointment order on 29.03.1982. Thereafter, on a complaint received from V. Pochaiah, an enquiry was conducted, and after due enquiry as it was found that Koram Kotaiah secured appointment by impersonating V. Pochaiah, they have cancelled the said appointment order and appointed the son of V. Pochaiah i.e., V. Venkateswarlu in the existing vacancy under the land ousters quota on 09.05.2000, and therefore, now the petitioners cannot claim appointment under the land ousters quota.

Heard the learned counsel for the petitioners and Sri K. Chidambaram, learned Standing Counsel for the respondents, and perused the material on record.

The contention of the petitioners is that after acquisition of lands, they approached the respondents and requested them to provide employment in any suitable post under the land ousters quota, but their cases were not considered by the respondents stating that the grand children of land displaced persons are not entitled for employment under the said quota. But, there is no material placed before this Court by the petitioners to substantiate their contention that they have approached the respondents claiming appointment under the land ousters quota.

Admittedly, though the land was acquired and award was passed in the year 1965, the petitioners neither approached the respondents nor made any representation so far claiming any appointment under the land ousters quota, and for the first time after lapse of more than 40 years after the acquisition they have approached this Court and filed the present writ petitions seeking employment under the land ousters quota. Hence, the writ petitions are liable to be dismissed on the ground of laches.

The other contention of the petitioners is that though the respondents considered the cases of similarly situated persons i.e., M. Nagendra Babu and V. Venkateswarlu and given appointments to them under the land ousters quota in the year 1985 and 2000 respectively, they failed to consider their cases. So far as the appointment of M. Nagendra Babu is concerned, according to the learned Standing Counsel for the respondents the case of

M. Nagendra Babu was considered in the year 1985, and as on that date there is no prohibition to appoint the grand sons of land ousters, and because of subsequent G.O. Ms. No.98, dated 15.04.1986, whereunder prohibition is placed in appointing the grand sons of land ousters under the land ousters quota, the case of the petitioners cannot be accepted. To appreciate this contention, I have perused G.O. Ms. No. 676, dated 17.11.1978 and G.O. Ms. No.98, dated 15.04.1986, which are filed by the respondents along with counter affidavit. A perusal of G.O. Ms. No. 676, dated 17.11.1978, which is earlier to G.O. Ms. No. 98, dated 15.04.1986, shows that preference in recruitment should be given to the eligible displaced persons or their dependents i.e., Son/Daughter/Spouse whose names are furnished by the respective Collectors, there being no other earning member in the family. On identical lines another G.O. Ms. No. 98, dated 15.04.1986, was issued wherein it is stated that the candidates eligible for appointment under

this scheme shall be the displaced persons of his/her son, daughter or spouse, there being no other earning member in the family. Since there is no change in the procedure or eligibility criteria in the subsequent G.O., the contention of the learned Standing Counsel for the respondents that because of subsequent G.O., there is a prohibition to appoint the grand sons of land ousters cannot be accepted.

Insofar as the appointment of V. Venkateswarlu is concerned, he is the son of one V. Pochaiah, whose land was acquired for construction of KTPS, but one Koram Kotaiah, S/o Mallaiah, by impersonation and claiming himself as V. Pochaiah, obtained appointment order and after due enquiry the appointment order issued to Koram Kotaiah was cancelled and appointed V. Venkateswarlu on 09.05.2000 in the existing vacancy under the land ousters quota. Hence, the same cannot be found fault with. Similarly, the appointment order issued in favour of M. Nagendra Babu in the year 1985 under the land ousters quota also cannot be disturbed at this stage.

In the instant case, though the land was acquired and award was passed in the year 1965, the petitioners neither approached the respondents nor made any representation so far claiming any appointment under the land ousters quota and for the first time they straight away approached this Court and filed the present writ petitions seeking employment under the land ousters quota after lapse of nearly 40 years from the acquisition. Hence, I am of the considered opinion that no relief can be granted to the petitioners at this belated stage and the writ petitions are liable to be dismissed on the ground of laches.

Accordingly, the writ petitions are dismissed. No costs.

After dismissal of the writ petitions, learned counsel for the petitioners wants to file application before the respondents seeking to consider the cases of the petitioners for employment under the land ousters quota. It is open to the petitioners to make such application, if so

advised.

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N.V. RAMANA, J.

Date: 12.09.2007
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